

ARNOLD & PORTER

October 22, 2002

Holly Logue Prutz
Holly_Prutz@aporter.com

202.942.5248
202.942.5999 Fax

555 Twelfth Street, NW
Washington, DC 20004-1206

Commissioner for Patents
Washington, D.C. 20231

Attn: Box DAC

Re: U.S. Patent Application No. 09/782,130
Filed: February 12, 2001
Title: **Methods and Compositions for Regulated Transcription and
Expression of Heterologous Genes**
Inventors: Vic C. KNAUF *et al.*
Atty. Docket: 16518.052

Sir:

The following documents are forwarded herewith for appropriate action by the U.S.
Patent and Trademark Office (USPTO):

1. Copy of Notice of Abandonment under 37 C.F.R. § 1.53 (f) or (g);
2. Petition for Revival of an Unintentionally Abandoned Patent Application under 37 C.F.R. § 1.137(b), including Exhibits A through G (in duplicate);
3. Statement under 37 C.F.R. § 1.137(b)(3);
4. Copy of Notice to File Corrected Application Papers;
5. Response to Notice to File Corrected Application Papers;
6. Forty-four (44) sheets of replacement drawings (Figures 1A through 10B);
7. Statement Regarding Sequence Submission;
8. Paper copy of Sequence Listing (24 sheets);
9. Computer Readable Form (CRF) of Sequence Listing on a floppy diskette;
10. Preliminary Amendment; and
11. Return postcard.

RECEIVED

OCT 25 2002

OFFICE OF PETITIONS

ARNOLD & PORTER

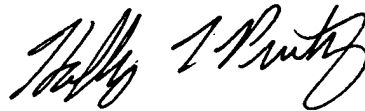
Commissioner for Patents
October 22, 2002
Page 2

Applicants request that the \$1,280.00 fee for filing a Petition to revive unintentionally abandoned application be charged to Deposit Account No. 50-2387, referencing matter no. 16518.052.

Please stamp the attached postcard with the filing date of these documents and return it to our courier.

In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned. Applicants do not believe any additional fees are due in conjunction with this filing. However, if any fees under 37 C.F.R. §§ 1.16 or 1.17 are required in the present application, including any fees for extensions of time, then the Commissioner is hereby authorized to charge such fees to Arnold & Porter Deposit Account No. 50-2387, referencing matter number 16518.052. A duplicate copy of this letter is enclosed.

Respectfully submitted,



Holly Logue Prutz (Reg. No. 47,755)
June E. Cohan (Reg. No. 43,741)

Attachments



09782130.102202

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Vic C. Knauf *et al.*

Appl. No.: 09/782,130

Filed: February 12, 2001

For: **Methods and Compositions for
Regulated Transcription and
Expression of Heterologous Genes**

Art Unit: To Be Assigned

Examiner: To Be Assigned

Atty. Docket: 16518.052

#11

RECEIVED

OCT 25 2002

OFFICE OF PETITIONS**Response to Notice to File Corrected Application Papers**Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Notice to File Corrected Application Papers mailed May 11, 2001 ("Notice"), Applicants submit the following remarks.

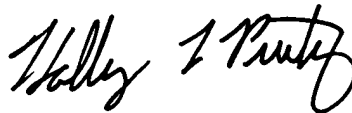
The Notice required that substitute drawings be submitted to comply with the requirements of 37 C.F.R. § 1.84. In order to meet these requirements, Applicants submit 44 sheets (figures 1A-1F, 2A-2L, 3A-3G, 4A-4E, 5, 6, 7A-7F, 8A-C, 9, and 10A-10B) of replacement drawings. Applicants wish to point out that the pagination and numbering of these replacement drawings is different from the informal drawing submitted with the originally filed application in order to comply with the margin requirements of 37 C.F.R. § 1.84(g). However, no changes have been made to the substance of the drawings and, thus, Applicants do not believe a separate paper showing the proposed changes to the drawings in red under 37 C.F.R. § 1.121(d) is required. No new matter enters by these substitute drawings.

The Notice further required Applicants to provide an initial computer readable form (CRF) copy of the Sequence Listing, an initial paper copy of the Sequence Listing, and an amendment directing its entry into the Application. The Notice further required Applicants to

provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written sequence listing and includes no new matter. In response, Applicants have provided a computer readable form (CRF) copy of the Sequence Listing, an initial paper copy of the Sequence Listing, an amendment directing its entry into the Application, and the required statement in the accompanying documents.

In the event that extensions of time beyond those petitioned for herewith are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned. Applicants do not believe any additional fees, other than those provided for in the accompanying documents, are due in conjunction with this filing. However, if any fees under 37 C.F.R. §§ 1.16 or 1.17 are required in the present application, including any fees for extensions of time, then the Commissioner is hereby authorized to charge such fees to Arnold & Porter Deposit Account No. 50-2387, referencing matter number 16518.052.

Respectfully submitted,



Holly Logue Prutz (Reg. No. 47,755)
June E. Cohan (Reg. No. 43,741)

Date: October 22, 2002

ARNOLD & PORTER
555 Twelfth Street, N.W.
Washington, D.C. 20004-1206
(202) 942-5000 telephone
(202) 942-5999 facsimile

COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|-----------------------|------------------------|
| 09/782,130 | 02/12/2001 | Vic C. Knauf | CGNE.099.04US |

CONFIRMATION NO. 2541

FORMALITIES LETTER



Rae-Venter Law Group, P.C.
P.O. Box 60039
Palo Alto, CA 94306

Date Mailed: 05/11/2001

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);
- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Docketed
Due Date 11/11/02
Initial alo

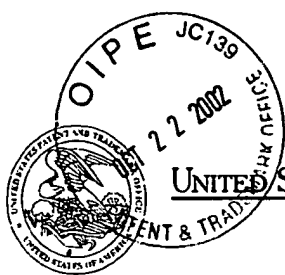
For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase Patent Software, call (703) 306-2600
- For Patent Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART I - ATTORNEY/APPLICANT COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-------------|-----------------------|------------------------|
| 09/782,130 | 02/12/2001 | Vic C. Knauf | 16518.052 |

CONFIRMATION NO. 2541

David R. Marsh, Esq.
ARNOLD & PORTER
555 Twelfth Street, NW
Washington, DC 20004-1206

**ABANDONMENT/TERMINATION
LETTER**



OC000000008659610

Date Mailed: 08/21/2002

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 05/11/2001.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

*A copy of this notice **MUST** be returned with the reply.*

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Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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OCT 25 2002

OFFICE OF PETITIONS



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-------------|-----------------------|------------------------|
| 09/782,130 | 02/12/2001 | Vic C. Knauf | 16518.052 |

David R. Marsh, Esq.
ARNOLD & PORTER
555 Twelfth Street, NW
Washington, DC 20004-1206

Pet'n to Revive
Docketed *10/21/02*
Due Date _____
Initial *do*

CONFIRMATION NO. 2541

ABANDONMENT/TERMINATION
LETTER



OC000000008659610

Date Mailed: 08/21/2002

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

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Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

*A copy of this notice **MUST** be returned with the reply.*

J Stokes

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

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AUG 27 2002

WASHINGTON, D.C.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-------------|-----------------------|------------------------|
| 09/782,130 | 02/12/2001 | Vic C. Knauf | CGNE.099.04US |

CONFIRMATION NO. 2541

Rae-Venter Law Group, P.C.
P.O. Box 60039
Palo Alto, CA 94306



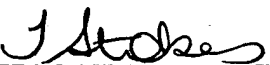
Date Mailed: 08/19/2002

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/28/2001.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).




TUSHOMBE A STOKES
OIPE (703) 308-9575

NEW ATTORNEY/AGENT COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-------------|-----------------------|------------------------|
| 09/782,130 | 02/12/2001 | Vic.C. Knauf | 16518.052 |

David R. Marsh, Esq.
ARNOLD & PORTER
555 Twelfth Street, NW
Washington, DC 20004-1206

CONFIRMATION NO. 2541



OC000000008646261

Date Mailed: 08/19/2002

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/28/2001.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

RECEIVED
DOCKET DEPT.
ARNOLD & PORTER
AUG 22 2002
WASHINGTON, D.C.


TUSHOMBE A STOKES
OICE (703) 308-9575

ATTORNEY/APPLICANT COPY

TO:David. R. Marsh COMPANY:

16518.052



UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Technology Center 1700

Facsimile Transmission

RECEIVED
DOCKET DEPT.
ARNOLD & PORTER

AUG 19 2002

WASHINGTON, DC

To: Name: David. R. Marsh
 Company:
 Fax Number: 2029425999
 Voice Phone:

From: Name: Tushombe Stokes
 Official Fax Number: (703) 872-9310
 Official After Final Fax Number: (703) 872-9311
 Voice Phone:

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

This fax Cover Sheet contains incorrect information-the phone and fax numbers above as well as the TC 1700 indication. (Our computer developers are working on the problem).
OIPE Customer Service (703) 308-1202



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|-----------------------|------------------------|
| 09/782,130 | 02/12/2001 | Vic C. Knauf | CGNE.099.04US |

CONFIRMATION NO. 2541

FORMALITIES LETTER



OC000000006067717

Rae-Venter Law Group, P.C.
P.O. Box 60039
Palo Alto, CA 94306

Date Mailed: 05/11/2001

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
 - drawing sheets do not have the appropriate margin(s) (see 37 CFR 1.84(g)). Each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (5/8 inch), and a bottom margin of at least 1.0 cm. (3/8 inch);
- This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

Docketed

Due Date

Initial

11/11/02
alo

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

A copy of this notice MUST be returned with the reply.

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART I - ATTORNEY/APPLICANT COPY

ARNOLD & PORTER

202.942.5000
202.942.5999 Fax

555 Twelfth Street, NW
Washington, DC 20004-1206

August 16, 2002

Commissioner for Patents
Washington, D.C. 20231
Attn.: Ms Stokes

Re: U.S. Application No. 09/782,130
Filed: February 12, 2001
Title: Methods and Compositions for Regulated
Transcription and Expression of Heterologous Genes
Inventors: Vic C. Knauf, *et al.*
Atty. Docket: 16518.052

Sir:

In a conversation with Ms. Stokes of the Office of Initial Patent Prosecution, we were informed that the Revocation of Prior Power of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address that we deposited with the United States Patent and Trademark Office on November 28, 2001 have not been entered into the file.¹ We respectfully request entry of the documents into the above-captioned application, and that the United States Patent and Trademark Office forward to the undersigned any communications from the Office since February 12, 2001.

United States Patent and Trademark Office personnel are encouraged to contact the undersigned to expedite this matter.

Applicants do not believe that any fees are required in conjunction with this communication. However, if any fees are required in conjunction with this communication, the United States Patent and Trademark Office is hereby authorized to charge such fees to deposit account 50-1824 referencing matter number 16518-052.

Respectfully submitted,



David R. Marsh (Reg. No. 41,408)
June E. Cohan (Reg. No. 43,741)

Enclosures

¹ Attached, please find a Revocation of Prior Power of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address, which was filed in the United State Patent and Trademark Office on November 28, 2001. Also enclosed is a copy of the date-stamped postcard itemizing these materials that was returned to our courier at the time the materials were filed.

Atty Docket No: 16518.052
Date: November 28, 2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|---------------|---|-----------|------------------|
| Applicant(s): | KNAUF <i>et al.</i> | Art Unit: | Not yet assigned |
| Appln. No.: | 09/782,130 | Examiner: | Not yet assigned |
| Filing Date: | February 12, 2001 | | |
| Title: | Methods and Compositions for Regulated Transcription and Expression of Heterologous Genes | | |

Commissioner for Patents
Washington, DC 20231

Sir:

Please place the U.S. Patent & Trademark Office receipt stamp hereon to acknowledge receipt of the following:

1. a Transmittal Letter;
2. a Revocation of Prior Power of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address; and
3. a return postcard

Return postcard to: Lisa A. Penoyer (1196A)

Atty Docket No: 16518.052
Date: November 28, 2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|---------------|---|-----------|------------------|
| Applicant(s): | KNAUF <i>et al.</i> | Art Unit: | Not yet assigned |
| Appln. No.: | 09/782,130 | Examiner: | Not yet assigned |
| Filing Date: | February 12, 2001 | | |
| Title: | Methods and Compositions for Regulated Transcription and Expression of Heterologous Genes | | |

Commissioner for Patents
Washington, DC 20231

Sir:

Please place the U.S. Patent & Trademark Office receipt stamp hereon to acknowledge receipt of the following:

1. a Transmittal Letter;
2. a Revocation of Prior Power of Attorney, Appointment of New Attorneys of Record and Change of Correspondence Address; and
3. a return postcard



Return postcard to: Lisa A. Penoyer (1196A)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Vic C. KNAUF *et al.*

Appl. No.: 09/782,130

Filed: February 12, 2001

For: **Methods and Compositions for
Regulated Transcription and
Expression of Heterologous Genes**

Art Unit: To Be Assigned

Examiner: To Be Assigned

Atty. Docket: 16518.052

Statement Under 37 C.F.R. § 1.137(b)(3)

Assistant Commissioner for Patents
Washington, D.C. 20231

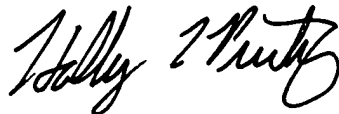
Attn: Box DAC

Sir:

As required to comply with 37 C.F.R. § 1.137 in the Petition to Revive the above-referenced patent application, Applicants assert that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

Should the Commissioner require additional information, he is invited to contact the undersigned at the number provided.

Respectfully submitted,



Holly Logue Prutz (Reg. No. 47,755)

June E. Cohan (Reg. No. 43,741)

Date: October 22, 2002

ARNOLD & PORTER
555 Twelfth Street, N.W.
Washington, D.C. 20004-1206
(202) 942-5000 telephone
(202) 942-5999 facsimile